

A PLEA TO SADC LEADERS:

DO NOT TOLERATE OR FUEL THE IMPUNITY OF THOSE WHO SEEK TO VIOLATE THE SADC TREATY AND THE ZIMBABWE GLOBAL POLITICAL AGREEMENT FOR POLITICAL ENDS

Abductions

Since 30 October 2008 the state, through its law enforcement and security institutions and agents, has committed with impunity the violent international crime of enforced disappearance (abduction) of prominent human rights defenders and legitimate Movement for Democratic Change political activists.

In proceedings before the High Court of Zimbabwe (*ref: Jestina Mungarewa Mukoko v. The Commissioner-General of Police and Others HC 7169/08*), the purported Minister of State Security in the President's Office, **Didymus Mutasa**, confirmed under oath that the abductions were carried out by state security agents.

The role of the state security agents, both Central Intelligence agents and high-ranking members of the Zimbabwe Republic Police, was also formally confirmed on court record by a representative of the Attorney-General, **Florence Ziyambi**, in the Magistrates' Court in criminal proceedings against the victims of the enforced disappearance.

Under international law, the crime of enforced disappearance has **no justification**, even where the defence of national security and public order is raised. This has been agreed by Member States of the United Nations, of which all SADC states are a part.

- **Torture and Cruel, Inhuman and Degrading Treatment and Punishment**

The victims of abductions, during their time of *incommunicado* detention, were subjected to such treatment, again with impunity. Their personal testimonies and medical confirmation of their physical and psychological injuries is on record and has not been denied by agents of the state or their legal representatives.

- A 72-year-old male abductee was ordered to undress and parade stark naked in front of women abductees, with the perpetrators mocking his physical make up.
- Most abductees were severely assaulted under their feet for prolonged periods in attempts to extract information and confessions from them. At least one abductee is now suffering renal (kidney) failure as a result.

- A number of abductees were made to sit in scalding hot water in bathtubs, and later had ice-cold water poured on them, into the undergarments, and in their detention cells.
 - A male abductee was laid on railway tracks whilst a train was approaching and told to say his last prayers, as he was about to die.
 - Some abductees were injected with an unknown liquid during their detention and interrogation.
 - Mock drowning (the practice of "water-boarding") was used in attempts to extract information and confessions.
 - A two-year-old child was beaten with a fan belt in order to force his mother to provide information and confessions.
 - Abductees were subjected to intentional near-starvation. Most were only provided with a 2-litre bottle of water for breakfast and lunch, and a small plate of maize-porridge/sadza for dinner - some for a period of over 50 days, leading some to lose almost one-third of their body weight during detention.
 - All abductees were videotaped and made to make false confessions on such tapes, without explanation and under threat of death or further bodily harm.
- **Other Violations of Fundamental Rights and Destruction of the Rule of Law**

The manner in which these abductees have been, and continue to be treated, has grave and severe implications not only on their own rights, but the Rule of Law. State actors (the Police, the state security apparatus, and the Attorney-General) continue to defy court orders that have been issued by the Magistrates' Court, the High Court and the Supreme Court in an attempt to restore and protect the basic rights of the detained abductees.

Examples include:

1. **Fidelis Chiramba and Others v. The Minister of Home Affairs & Others (HC 6420/08)** where the High Court declared the abduction and secret detention of several of the abductees unlawful and ordered their release. Despite this, they remain incarcerated on trumped-up charges more than 2 months after the Order was made.
2. **Kenneth Simon Marimba v. The Commissioner-General of Police & Others (HC 6905/08)** where the High Court order the police to investigate the abduction of Jestina Mukoko and prosecute the perpetrators.

3. **Killiana Takawira and Tsitsi Gonzo v. The Commissioner-General of Police & Others;**
Andrison Shadreck Manyere v. The Minister of Home Affairs and Others (HC 7127/08); Chris Garutsa v. The Commissioner-General of Police & Others; Enita Zinyemba v. The Minister of Home Affairs and Another (HC 7128/08): In all 3 cited cases, the police were ordered to do all things necessary to determine the whereabouts of the abducted people and investigate their abductions; to date, however, all the victims remain incarcerated on trumped-up charges whilst their abductors are roaming free.
4. **Jestina Mukoko and 31 Others v. The Commissioner General of Police and Another (HC 7166/08)** where an Order was granted for the police to release the abducted people who were now in their custody in defiance of previous orders by the High Court. All people covered by this order remain incarcerated to date.
5. **Jestina Mukoko v. The Commissioner-General of Police & Others (HC 7169/08)** where a High Court order that Mukoko be taken to a private hospital for treatment continues to be defied.
6. **Jestina Mukoko v. The Commissioner-General of Police & Others (SC 293/08)** where the Order of the Chief Justice of the Supreme Court that Mukoko be immediately taken for medical treatment at a private hospital continues to be defied.
7. **State v. Tawanda Bvumo; State v. Pascal Gonzo** where an Order of the Magistrates' Court for the immediate release of the two abductees was defied and they continue to remain in custody almost one month after the order was made.
8. **State v. Chris Dhlamini & Others** where, in bail applications, a High Court judge ordered that all the abductees in detention should immediately be taken for medical treatment and that the state should not interfere with such treatment. To date, this has not been done, and none of the abductees have been properly medically examined or treated by a doctor and in a facility of their choice.
9. **Lloyd Tarumbwa & 11 Others v. The Minister of State Security & Others (HC 23/09)** where the Minister and other state agents have failed or refused, despite order of the High Court, to produce all the missing abductees or release them.

To date, not a single individual perpetrator of such heinous international crimes has been investigated, let alone held to account.

Instead, the state is alleging that these victims are dangerous bandits, saboteurs, insurgents and terrorists. The evidence they provide is what was extracted through torture methods such as those described above, and the video performances they were forced to give after they were abducted, kept in *incommunicado* detention and tortured to extract false confessions.

State institutions and their agents have become the biggest danger to the Zimbabwean people, together with the failure of SADC leaders to recognize the deterioration of the situation and take firm action against the offenders, who continue to violate SADC principles and the GPA with impunity.

You have one final chance to do the right thing.

For further comment on the ZLHR statement, please contact:

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